



PLANNING COMMITTEE

Tuesday 15 March 2022 at 6.00 pm

Council Chamber, Ryedale House, Malton

For the purpose of public transparency and accountability, the meeting will be live streamed online. Details of how to access the live stream will be made available on the Council's website in due course. For health and safety reasons and in accordance with our risk assessment, members of the public are asked to follow the meeting via this method and cannot attend any physical meeting in person. Members of the public wishing to speak at the meeting will be able to do so remotely and details of how to do this will be provided after registrations to speak are received.

Agenda

21 Late Observations

(Pages 2 - 22)

Agenda Item 21

RYEDALE
DISTRICT
COUNCIL



Please Contact: Hayley Atkinson

Extension 43393

Email: Hayley.atkinson@ryedale.gov.uk

All Members of the Planning Committee
Council Solicitor
Head of Planning
Planning and Regulation Technical Support Manager

Ref: Agendas/Planning/20

11th March 2022

Dear Councillor

Meeting of the Planning Committee – 15th March 2022

With reference to the above meeting I enclose for your attention the late observations received since despatch of the agenda.

All items for the late observations relate to:

Item 5 – Index page

Item 7 - 21/00963/HOUSE

Item 14 – 21/01549/FUL

Yours sincerely



Mrs Karen Hood
Planning and Regulation Technical Support Manager

APPLICATIONS TO BE DETERMINED BY RYEDALE DISTRICT COUNCIL

PLANNING COMMITTEE - 15/03/22

6

Application No: 20/00328/FUL

Application Site: The Basement The Cornmill Railway Street Malton North Yorkshire YO17 7NT

Proposal: Change of use and alteration of basement of former mill to form 3no. one bedroom flats, a support facility and stores together with new entrance gates for vehicular and pedestrian access

7

Application No: 21/00963/HOUSE

Application Site: 10 Hungate Pickering YO18 7DL

Proposal: Erection of double garage with access off Keepersgate following demolition of existing greenhouse

8

Application No: 21/01443/MFUL

Application Site: Fox Hill Touring Caravan And Camping Site Claxton To Harton Lodge Road Claxton Malton YO60 7RX

Proposal: Extension to holiday park to include the siting of 5no. static caravans, 7no. holiday lodges and 6no. glamping pods

9

Application No: 21/01496/FUL

Application Site: Laburnum Cottage West End Sheriff Hutton North Yorkshire YO60 6SH

Proposal: Change of use of detached artist studio for personal use to allow the public to attend art workshops and open studio events

10

Application No: 21/00794/73

Application Site: Forge Cottages Barugh Lane Great Barugh Malton YO17 6UZ

Proposal: Variation of condition 16 of planning approval 18/00429/FUL dated 03.07.2018 to allow alterations to the internal layouts design of the dwellings and to change one of the single garages to a double garage

APPLICATIONS TO BE DETERMINED BY RYEDALE DISTRICT COUNCIL

PLANNING COMMITTEE - 15/03/22

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Application No: 21/01046/HOUSE
Application Site: 20 The Mount Malton YO17 7ND
Proposal: Erection of single-storey side extension

12

Application No: 21/01499/FUL
Application Site: Dogh Main Street Welburn Malton YO60 7DX
Proposal: Siting on the service road and village green of outdoor seating for Dogh Cafe and sale of hot food for consumption off the premises (retrospective application)

13

Application No: 21/01590/73A
Application Site: Dogh Main Street Welburn Malton YO60 7DX
Proposal: Variation of Condition 03 of approval 09/00241/FUL dated 11.06.2009 to set opening hours of the cafe including any hot food takeaway and the retail use as 08.00 to 18.00 Monday to Saturday and 08.00 to 17.00 on Sundays and Bank/Public Holidays (no opening on Christmas Day or Boxing Day). (retrospective application)

14

Application No: 21/01594/FUL
Application Site: Beckside Cottage Thorpe Lane Ampleforth YO62 4DL
Proposal: Erection of a 4no. bedroom replacement dwelling and detached garage/garden store with associated parking and landscaping following demolition of existing dwelling

15

Application No: 22/00067/HOUSE
Application Site: 1 Thornton Heights Thornton-Le-Dale Pickering North Yorkshire YO18 7QZ
Proposal: Erection of a single storey rear extension to the existing garage

APPLICATIONS TO BE DETERMINED BY RYEDALE DISTRICT COUNCIL

PLANNING COMMITTEE - 15/03/22

16

Application No: 22/00099/HOUSE

Application Site: 1 Russett Road Malton YO17 7YS

Proposal: Erection of new entrance porch

Item Number: 7
Application No: 21/00963/HOUSE
Parish: Pickering Town Council
Appn. Type: Householder Application
Applicant: Mr Daniel Armitage (Zarafa Group Limited)
Proposal: Erection of double garage with access off Keepersgate following demolition of existing greenhouse
Location: 10 Hungate Pickering YO18 7DL

Registration Date: 1 November 2021
8/13 Wk Expiry Date: 27 December 2021
Overall Expiry Date: 9 March 2022
Case Officer: Ellie Thompson **Ext:** 43326

CONSULTATIONS:

Pickering Town Council
Highways North Yorkshire No objections

Representations: Mr J W Willby, Mr Edward Ford, Mrs L Baguley, Mr Ian Birch & Lucy Shaw, Miss Denise Hatfield, Nikki Barrett, Suzy Meadowcroft, Mr Charles Jennison,

Update Report

Members will recall that this application was deferred at the last meeting on the advice of the Council's solicitor. This followed the receipt of a letter from Ware and Kay (W&K) solicitors on the day of the last committee which raised a number of issues with the Officer report and requesting that the matter is deferred by the committee. The latter was written on behalf of their client (H L Halder Ltd) who own land over which access to the proposed garage is achieved.

The Ware and Kay letter is appended to this update report. In summary it raises concerns about:

- Access to the site of the proposed garage
- Highway consultation response
- Generic development management issues
- Lack of adequacy of proposed conditions to restrict later development

Access

In summary, the Ware and Kay's client is of the view that:

- The site is landlocked for vehicular access
- There is no evidence of any right of vehicular access for 10 Hungate to drive to and from Recreation Road to 10 Hungate across Keepersgate/ 'The Lane'
- The report to committee is at serious risk of fundamentally misleading the Committee, not least because the site, contrary to the report, has no legal right of way for vehicles across Keepersgate, otherwise known as 'The Lane', and
- That it is not sufficient for the Authority to disregard access as a civil matter of no relevance to the committee as it is fundamental to the response of consultees and the appraisal by the LPA on the effect on surrounding properties.

The report notes that it is understood that 10 Hungate has a right of access over Keepersgate/ The Lane.

To clarify members understanding and to address the allegation that the report is misleading, the extent to which the applicant has a vehicular right of access over (Keepersgate) 'The Lane' is not known. However, as members are aware, a right of access/ vehicular access is a private civil matter and is not, in itself a material planning consideration. The report recognises and engages in the impact of vehicular traffic accessing the site and the associated material planning considerations. The report is not misleading in this respect. For the avoidance of doubt. The applicant's ability to access the proposed garage in terms of a legal right of access is a private civil matter. The impact of vehicles accessing the proposed garage is a material planning consideration which Officers have been mindful of in making the recommendation and which members of the Committee will take into account when determining the application.

The Local Highway Authority has confirmed that Keepersgate (between Recreation Road and (Keepersgate) 'The Lane' is adopted public highway. A map of the extent of the public highway is attached.

Highway Consultation Response

The Local Highway Authority has confirmed no objection to the application. W&K has raised concern that the LHA consultation response has not addressed the concerns raised by the Highway Officer in response to a 'very similar' application which was refused in 2016.

The two applications are not 'very similar'. The current application is for a garage to serve and existing dwelling and the 2016 application was an application for a further, new dwelling at the site. Whilst the proposed access arrangements are not dissimilar, NYCC Highways has clarified the position, which relates directly to the application of NYCC's policy. The Highway Officer, Stephen Boyne has responded as follows:

*"With respect to 16/00967/FUL, the key issue from a highway perspective was the application proposed a **new dwelling** which would invoke the adopted policy appertaining to numbers of dwellings being served off a private drive. Hence the recommendation of refusal. As far as I am aware the policy has never been quoted in respect of a proposed garage that in itself is being allied to an existing dwelling, which in this case fronts another street. I do not recall the garage having any residential element proposed as per the application?"*

Generic Development Management Issues

W&K claim that the Authority has failed to have any regard to Policy SP19 (Generic Development Management Issues) which they believe to be highly relevant to the application, despite the report accepting the development is in close proximity to many neighbouring properties.

Members are aware the Generic Development Management Issues policy of the Development Plan is Policy SP20. The Officer report engages in the impact on neighbouring amenity and correctly references the relevant policy. The impact on neighbours is a matter of planning judgement and it is not a matter which is not considered or overlooked in the Officer report.

It is considered that the report would benefit from further elaboration of this matter. The second paragraph of the ' Impact on Neighbour Amenity 'section concludes that the proposed development will not have a detrimental impact on the amenity of the occupiers of the neighbouring properties in terms of loss of light, privacy or overbearing effects.

Clearly, the proposed garage will result in some increased vehicular activity along/through Keepersgate and 'the Lane'. This increase in movements may result in neighbouring residents experiencing some increased activity with associated noise and disturbance which is a detrimental impact. However, the development proposed is a domestic garage to serve one dwelling and neighbours in the immediate locality currently experience a level of vehicular activity associated with

access to garages serving properties on Keepersgate and The Old Schoolhouse. Against this context, it is considered that the vehicular movements arising from the use of the proposed garage will not result in a significantly greater level of activity or disturbance over and above that which is currently experienced by residents on Keepersgate.

In this respect, the conclusion of this section of the report should more accurately read – ‘ as such, owing to its scale , position and existing vehicular activity between Keepersgate and Keepersgate/’the Lane’, it is considered that the proposed development will not result in an unacceptable detrimental impact on the residential amenities of the occupiers of neighbouring properties, in terms of loss of light, loss of privacy, or overbearing effects including through increased noise, activity and disturbance .

Adequacy of Conditions

Proposed Condition 4 restrict the use of the garage for domestic purposes in conjunction with the dwelling 10 Hungate. It is considered that the condition meets the tests of conditions and as such, that it is enforceable. The ability to enforce against a breach of the condition provides the appropriate safeguard. The Local Planning Authority is required to determine applications on the basis of the development proposed and cannot determine applications or control development on the basis of speculation over a future use. The proposed condition provides the required level of control.

Informatives

1. To clarify the informative and W&R’s point, it is understood that there are 13 properties on Keepersgate/ in the Keepersgate development and one dwelling – the Old School house/ 9 Keepersgate on the Keepersgate/The Lane. The report has been prepared following a site visit undertaken by the Planning Officer who is aware of the location and extent of neighbouring properties.
2. The Local Highway Authority suggested the informative on the basis that the land is not public highway and a condition could not be imposed to control the design/ opening of the garage doors. Any obstruction would be a civil matter between the relevant property owners. The informative draws attention to the potential issue.

Ellie Thompson
Planning Officer
Ryedale District Council

By email only to:-
ellie.thompson@ryedale.gov.uk; and
hayley.atkinson@ryedale.gov.uk

Our Ref: JCB/HW/JEN65/6

Your Ref:

E-mail: Julie.Bradwell@warekay.co.uk

Direct Dial: Julie Bradwell 01904 716021

Date: 15 February 2022

Dear Madam

**Re: Our Client – H L Halder Limited
Planning application 21/00963/HOUSE 10 Hungate, Pickering due for determination
15th February 2022 by Planning Committee**

We have very recently been instructed to advise and represent H.L Halder Ltd, relating to their position as third parties, in respect of planning application 21/00963/HOUSE, due for determination by planning committee today, 15th February 2022.

Our client owns the unregistered land, see the Map Search attached, over which vehicular access is allegedly asserted in the committee report on this item.

We have requested the deeds to our clients' unregistered land from our off- site storage agent and this will take time to arrive at our office. We wish to check if there are restrictions on vehicular access, as is our clients' recollection. As you will see from Land Registry title to 10 Hungate, Pickering, NYK223644, attached on which you rely and supplied to the Authority by the applicant, to assert that vehicular access exists to no 10 from number 7, across our clients land, the 1999 application to register a right of way is subject to the contents of the deeds, which the applicant in 1999 stated to the Land Registry were lost in a fire.

Therefore we need time to investigate and assess the relevant unregistered title deeds. The right of way asserted in the title to No 10 does not refer to vehicular access.

However, we have also investigated all the titles to the various properties comprising Keepers Gate, an unadopted lane and can find no evidence of any right of vehicular access for number 10 Hungate to drive any vehicle to and from Recreation Road to No 10 Hungate across Keepers Gate.

Therefore the site at 10 Hungate appears landlocked for vehicular access.

Having read the report to committee (Agenda Item 7), recommending approval of the application, we urgently request the matter is deferred by committee. The reason is we have



instructions that if the matter is approved, to apply for Judicial Review to quash the permission granted, with costs for the following reasons.

The planning application relates to 10 Hungate, Pickering and a proposed erection of a large garage with access via Keepersgate, following demolition of a large greenhouse.

Having taken detailed instructions, we have advised our client that the report to committee is at serious risk of fundamentally misleading the committee, if approved, not least because the site at 10 Hungate, contrary to the report above, has no legal right of way for vehicles across Keepersgate, otherwise known as, "The Lane."

We have examined the claimed right of way of 10 Hungate in detail via Keepersgate and no such right exists.

Therefore, we respectfully suggest it is not sufficient for the Authority to disregard access as a civil matter of no relevance to the committee, as it is fundamental to the response of consultees and appraisal by the Authority on the effect on surrounding properties.

Highway Consultation Response

Given there is no right of access via the Lane to 10 Hungate, the proposed new garage building, for 2 vehicles, is incapable of providing off street parking, contrary to the opinion in the report to members. Additionally it will not therefore improve on street parking provision.

Further, the concerns relating to raised levels of traffic movements raised in consultation responses therefore have not been addressed in the report, as it erroneously states there is a right of access.

The Highway Consultation Response for this application has also not addressed the legitimate concerns raised by Highway Officer Stephen Boyne on 24th June 2016 in response to a very similar planning application 16/00967/FUL for the erection of a two bedroomed dwelling on the site of the abandoned greenhouse and the provision of 2 parking spaces attached. In that application, the Highway Officer's advice stated, "I understand the existing building to be demolished is a ... greenhouse which appears to have no allied vehicular access or related activity the existing private shared drive already serves vehicular access to seven residential properties of Keepersgate plus at least one property on Hungate. The County Council has a policy whereby six or more properties should be laid out and constructed so that its adoption could occur of highway maintainable at public expense. Whilst it is acknowledged that there is an existing shared drive, it is limited in layout and facilities and a further new build property would likely give rise to additional strain on the driveway by way of vehicle traffic manoeuvring, deliveries etc., and such additional activity could also be considered detrimental to the amenity of the area. Consequently the local Highways Authority recommends that planning permission is **refused** for the following reason. **R1 ROADS LEADING TO THE SITE – THE PLANNING AUTHORITY CONSIDERS THAT THE ROADS LEADING TO THE SITE ARE BY REASON OF THEIR POOR ALIGNMENT/POOR JUNCTION/INSUFFICIENT WIDTH/POOR CONDITION/CONSIDERABLE GRADIENTS AND LACK OF FOOTWAYS/LIGHTING/TURNING AREA ARE CONSIDERED UNSUITABLE FOR THE TRAFFIC WHICH WOULD BE LIKELY TO BE GENERATED BY THIS PROPOSAL**".

The refused application based on highway grounds has no changed highway facts with this application. There is insufficient space for pavement between the existing properties on Keepers Gate and is unsuitable for adoption by the Council, despite proposed increase in traffic and create an overbearing presence for residents.

SP19 Generic Development Management Issues

No 10 Hungate is owned by Zafara Group Ltd. Their sister company, Zafara Access Company Ltd owned Number 7 Hungate, which is used for commercial purposes. There is concern that this application is a Trojan horse to facilitate the increase in vehicles associated with their commercial use of No 7 Hungate. This will create an even greater overbearing presence, due to the close proximity of close by residences, a number occupied by slow moving elderly residents, one having a motorised scooter.

Our clients own and rent 2 properties on the Lane, No 1 and No 3 Keepersgate. It is their concern to protect the amenity and safety of their tenants on the lane. They have legitimate concerns as to the nature and frequency of vehicles, this application, if approved, will facilitate in future and have not been addressed in the report.

The Authority has failed to have any regard to policy SP19 which is highly relevant to this application, despite the report accepting the development is in close proximity to many neighbouring properties.

Lack of Adequacy of Proposed Conditions to Restrict Later Development

Condition 4 does not sufficiently safeguard the use of the proposed garage for domestic purposes only, given the adjoining proximity of the applicant's sister company and their inevitable commercial use of the premises of No 7 Hungate.

Condition 5 – the claimed removal of permitted development rights does not protect the immediate locality from development of a dwelling and associated parking and vehicle use safety concerns on the rear land sited at No 10. The derelict greenhouse is an abandoned building and a garage application should not be, nor is it necessary, due to the principle of abandonment. To do otherwise, may provide a precedent/foothold for subsequent development, given there is no vehicular access to No 10 via the Lane to facilitate a later proposal for a dwelling, which is a substantial risk.

Informatives

1. The report accepts the development is, **“in close proximity to many neighbouring properties.”**
2. It appears there is a risk the garage doors may restrict access when open to No 8 Hungate. There is no effective control over the design of the doors to prevent obstruction.

Accordingly, please confirm the above matter will be deferred at committee today, otherwise if approved we have instructions to seek to apply for Judicial Review of the approval and regretfully seek costs against the Authority.

Yours faithfully



WARE & KAY



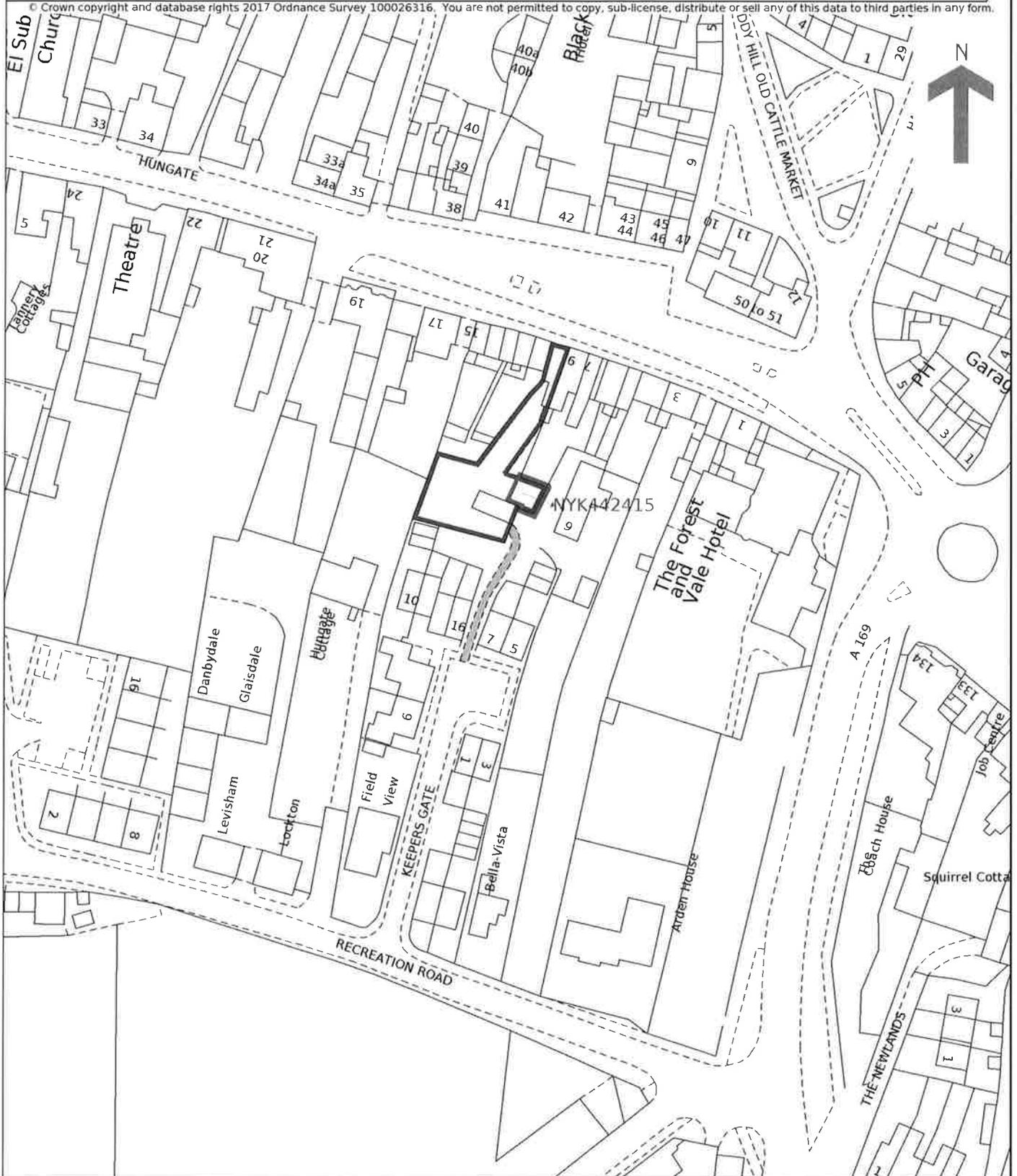
Title number	Estate information	Address
No registrations found		

HM Land Registry
Official copy of
title plan

Title number **NYK223644**
Ordnance Survey map reference **SE7983NE**
Scale **1:1250 enlarged from 1:2500**
Administrative area **North Yorkshire :**
Ryedale



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These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from HM Land Registry.

This official copy is issued on 11 February 2022 shows the state of this title plan on 11 February 2022 at 13:18:10. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by the HM Land Registry, Durham Office .



Official copy of register of title

Title number NYK223644

Edition date 20.12.2018

- This official copy shows the entries on the register of title on 10 FEB 2022 at 15:34:36.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 10 Feb 2022.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Durham Office.

A: Property Register

This register describes the land and estate comprised in the title.

NORTH YORKSHIRE : RYEDALE

- 1 (03.09.1999) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being 10 Hungate, Pickering (YO18 7DL).
- 2 (03.09.1999) The land has the benefit of a right of way over the land coloured brown on the title plan.
- 3 (20.03.2017) A new title plan based on the latest revision of the Ordnance Survey Map has been prepared.
- 4 (20.03.2017) The land edged and numbered in green on the title plan has been removed from this title and registered under the title number or numbers shown in green on the said plan.
- 5 (20.03.2017) The land has the benefit of any legal easements reserved by a Transfer of the land edged and numbered NYK442415 in green on the title plan dated 9 March 2017 made between (1) Dorothy Elizabeth Coutts and (2) Zarafa Group Limited.

NOTE: Copy filed under NYK442415.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (20.12.2018) PROPRIETOR: ZARAFA GROUP LIMITED (Co. Regn. No. 05674776) of 7 Hungate, Pickering YO18 7DL.
- 2 (20.12.2018) The price stated to have been paid on 7 December 2018 was £215,000.

C: Charges Register

This register contains any charges and other matters that affect the land.

The electronic official copy of the register follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

Title number NYK223644

- 1 (03.09.1999) The deeds and documents of title having been destroyed by fire the land is subject to such restrictive covenants as may have been imposed thereon before 3 September 1999 and are still subsisting and capable of being enforced.

End of register

**NORTH YORKSHIRE COUNTY COUNCIL
BUSINESS and ENVIRONMENTAL SERVICES**



**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION**

Application No: 16/00967/FUL

Proposed Development: Erection of a 2no. bedroom dwelling with formation of 2no. associated parking spaces following demolition of existing outbuilding

Location: Building To Rear Of 16 Keepersgate Pickering North Yorkshire

Applicant: Mrs Coutts

CH Ref:	N/A	Case Officer:	Stephen Boyne
Area Ref:	3/102/1687A	Tel:	01609 780 780
County Road No:	Private off U/C	E-mail:	Area4.KirbyMisperton@northyorks.gov.uk

To:	Ryedale District Council Ryedale House Old Malton Road MALTON North Yorkshire YO17 9HH	Date:	24 June 2016
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FAO: Charlotte Cornforth **Copies to:**

I understand that the existing building to be demolished is a domestic outhouse/greenhouse which appears to have no allied vehicular access or related activity.

The existing private shared drive already serves as vehicular access to 7 residential properties off Keepersgate, plus a least one property on Hungate.

The County Council has a policy whereby access to 6 or more properties should be laid out and constructed so that its adoption could occur as highway maintainable at public expense. Whilst it is acknowledged that it is an existing shared drive, it is limited in layout and facilities and a further new build property would likely give rise to additional strain on the driveway by way of vehicular traffic, manoeuvring, deliveries etc., and such additional activity could also be considered detrimental to the amenity of the area.

Consequently, the Local Highway Authority recommends that Planning Permission is **REFUSED** for the following reasons:

Signed:

Stephen Boyne

For Corporate Director for Business and Environmental Services

Issued by:

Kirby Misperton Highway Office
Beansheaf Industrial Park
Tofts Road
Kirby Misperton
YO17 6BG

e-mail: Area4.KirbyMisperton@northyorks.gov.uk

**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION**



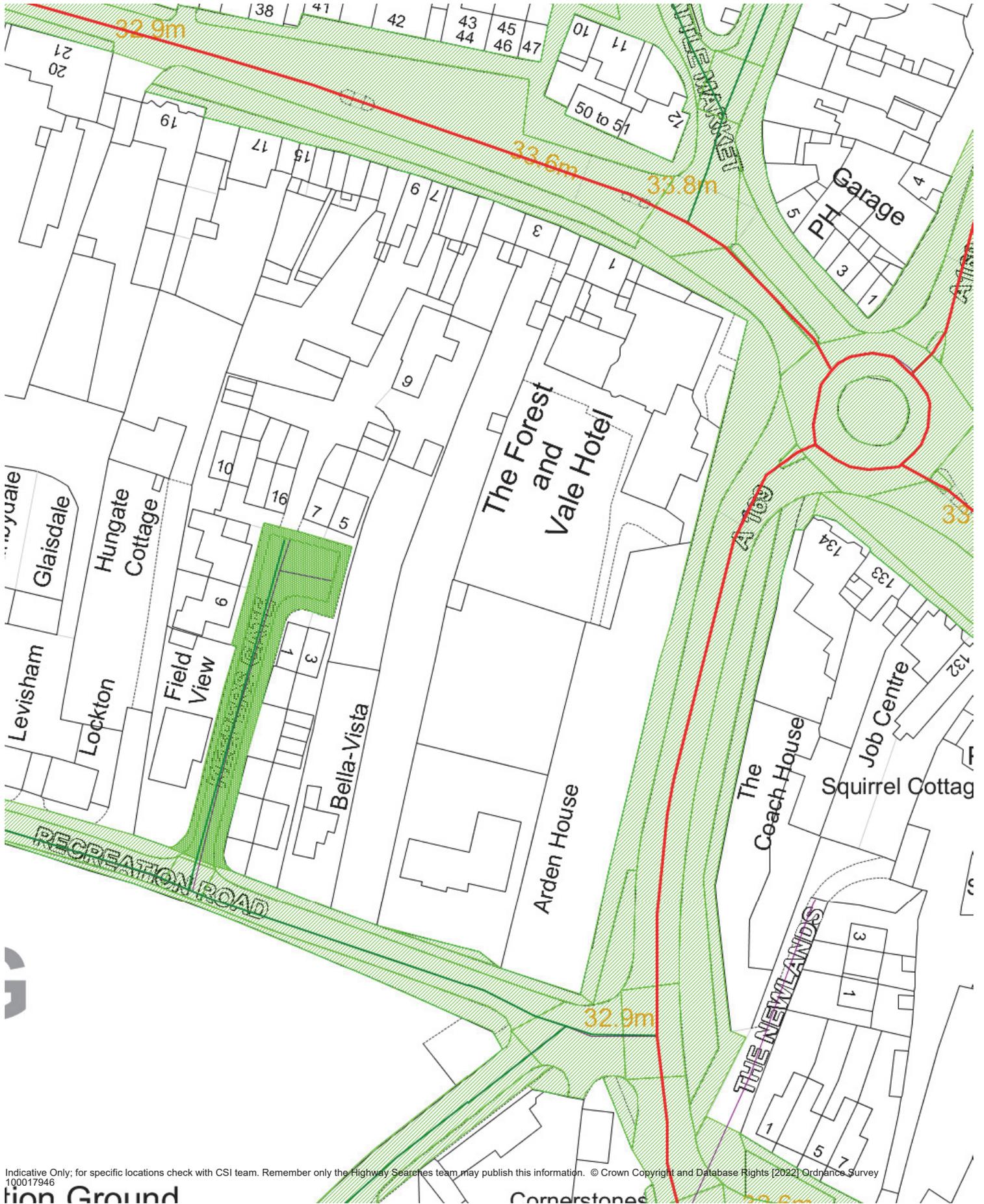
Continuation sheet:

16/00967/FUL

Application No:

1. R1 ROADS LEADING TO THE SITE

The Planning Authority considers that the roads leading to the site are by reason of their poor alignments/ poor junctions / insufficient widths / poor condition / unsuitable gradients and lack of footways/lighting/turning area considered unsuitable for the traffic which would be likely to be generated by this proposal.



Indicative Only; for specific locations check with CSI team. Remember only the Highway Searches team may publish this information. © Crown Copyright and Database Rights [2022] Ordnance Survey 100017946

tion Ground

20 m

21/01594/FUL

Additional proposed conditions

Landscaping

Plans showing details of landscaping and planting schemes shall be submitted to and approved in writing by the Local Planning Authority. The schemes submitted shall be substantially in accordance with the submitted Landscape Strategy and shall provide for the planting of trees and shrubs and show areas to be grass seeded or turfed. The submitted plans and planting schedules shall indicate numbers, species, heights on planting and positions of all trees and shrubs, including items to be retained. All planting, seeding and/or turfing shall be carried out in the first planting season following the commencement of the development or such longer period as may be agreed in writing with the Local Planning Authority. Any trees to be retained at the site (in line with the tree protection plan) which are removed, die or become seriously damaged or diseased shall be replaced in the next planting season with others of the same species unless otherwise agreed by the Local Planning Authority. Any trees or shrubs which within a period of five years from being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and sizes unless the Local Planning Authority gives written consent to the variation.

Reason: To enhance the appearance of the development hereby approved and the landscape setting of the site within the AONB in accordance with Policy SP13 (Landscapes) and to comply with the requirements of Policy SP20 (Generic Development Management) Issues of the Ryedale Local Plan Strategy.

Protected Species

No development shall commence (including demolition) until such time as a European Species Licence has been obtained. A copy of the Licence shall be submitted to the Local Planning Authority.

Reason: In the interests of protected species and to satisfy Policy SP14 (Biodiversity) of the Local Plan Strategy.